

Tuesday, 9 o'clock, a. m.
February 29th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names :

Messrs. Abbott, Bourland, Brashear, Bache, Burleson, Clark, Cuny, Dancy, Gage, Grimes, Jewett, Fitzgerald, McRae, Navarro, Parker, Perkins, Phillips, Wallace, Williams, Williamson and Wooten.

Quorum present.

The journal of the preceding day was read and adopted.

Mr. Grimes, chairman of the committee on Finance, made the following report :

The committee on Finance, to which was referred the petition of John Jacobs, accompanied with a petition of the citizens of Rusk and Cherokee counties, praying relief for said Jacobs, have had the subject under consideration, and are of opinion that it would be inexpedient to grant the relief asked for. Your committee have instructed me to return the petition, and ask to be discharged from the further consideration of the subject.

Mr. Clark, chairman of the committee on the Judiciary, to whom was referred "A bill to be entitled an act to exclude fraudulent land certificates from being evidence of title to land, and to prohibit the issuance of legal process upon the same," reported the same back to the Senate, and recommended its passage.

Mr. Clark also made the following report :

The Judiciary Committee, to whom was referred "An act appropriating certain fines and forfeitures," have had the same under consideration, and a majority of the committee have directed me to return the bill to the Senate, and recommend that it be laid upon the table.

This bill proposes that all monies collected as penalties, fines and forfeitures, in behalf of the State, shall be applied to the payment equally of jurors, officers and witnesses, for their ser-

vices in criminal cases, in the counties in which such monies are derived.

The objection raised to this bill is, that it will disqualify persons as jurors and witnesses by making them interested parties, and would also tend to destroy that impartiality which should characterize juries in their determination of all questions submitted to their decision. It is feared that such a law would tend to lead to bad results, and hence they deem it impolitic to pass the bill.

Mr. Williams, chairman of the committee on Apportionment, Privileges and Elections, made the following report:

The committee on Apportionment, Privileges and Elections, to whom was referred a bill to be entitled an act to fix the time of holding elections for the several State and county officers, and for Representatives to the United States Congress, have had the same under consideration, and instructed me to report the same back to the Senate, with amendments, and recommend their adoption and the passage of the bill.

Amend the caption so as to strike out the word "fix" and insert "define."

Amend first section, by inserting after the word "Legislature," "the Commissioner of the General Land office."

Add proviso to last section as follows: "provided that any person holding office may continue to exercise the functions thereof, until their successors are duly qualified."

Mr. Williamson also made the following report:

The committee on Apportionment, Privileges and Elections, to whom was referred a bill to be entitled an act regulating elections, have had the same under consideration, and a majority thereof have instructed me to report the same back to the Senate, with amendments, and recommend its passage.

Amendments—

In section 5, after the word "county," in second line, insert "by death, resignation, or otherwise."

Section 11, substitute to read as follows: "That each of the clerks shall write and number the name of each voter at the time of his voting, and in case the voter be not entitled to vote for all the officers that the election is held for, at that precinct, the

clerks shall set down opposite to his name the officer or officers for which such voter is entitled to vote, for the purpose of afterwards purging the polls in case the election shall be contested, and one of the managers shall in every case, at the time of receiving the ticket or ballot, write upon it the voter's number corresponding with the clerk's list; and no manager or other officer of an election shall unfold or examine the vote received, nor shall they examine the endorsements on the tickets when the votes are counted out, nor at any time subsequent to their being received into the ballot box, and no ticket not thus numbered shall be counted or noticed in counting out the votes.

Mr. Williams, chairman of the committee on Internal Improvements, to whom was referred "A bill to be entitled an act to establish the Galveston and Red River Railroad Company," reported the same back to the Senate, and recommended its passage.

The President of the Senate appointed Messrs. Cuny, Jewett and Williams, a committee on the part of the Senate, to act with a like committee on the part of the House of Representatives, to draft a memorial to the Honorable the Congress of the United States, in accordance with a resolution adopted by the Senate on Saturday last.

Mr. Dancy, chairman of the committee on State Affairs, made the following report:

Committee Room,
28th Feb., 1848.

JOHN A. GREER,
President of the Senate:

The committee on Affairs of State, to whom was referred that portion of the Governor's message relative to Santa Fe and the territorial Government established there, after fully considering the subject, have instructed me to make the following report:

The law of 19th Dec., 1836, declared the boundaries of the Republic of Texas to extend from the mouth of the Sabine,

along the coast to the mouth of the Rio Grande, thence up the principal stream of said river to its source; thence due north to the forty second degree of north latitude; thence along the boundary line as defined in the treaty between the United States and Spain, to the beginning. This law was in force at the date of annexation, and is still in force.

The right of Texas to territory north of thirty-six degrees, thirty minutes, north latitude, is recognized by the United States in the annexation resolutions. The Constitution of Texas, formed by her Convention, and received by the United States, declares all laws to be in force not contrary to the Constitution. As this law is still in force, it now becomes the duty of the United States to secure to us the territory included in the boundaries prescribed by the law of 1836.

If the United States occupies the country on this side the Rio Grande, which was formerly a part of New Mexico, she can only do so as trustee for Texas, and under no circumstances can she acquire rights to any territory included in the limits of Texas, according to the law of 1836, which would conflict with the rights of Texas. If we were to admit that the United States might yield Santa Fe to Mexico, to bring about a peace on account of the dangers of war, and for the purpose of saving her armies from destruction, still she could not now give it up, without perpetrating an outrage upon Texas, and a grievous wrong upon her creditors. Unless the country is yielded to Mexico, the United States is bound by every principle of right and justice, and the usages of nations, to secure to Texas the whole of the territory within her limits. What would be thought of a nation, who would place an ally in a worse position than she found it, when their arms were everywhere victorious? When Texas declared upon her statute book the boundaries for which she would contend, the nations which recognized her as an independent nation, received her into the family of States with all her rights. When Texas came into the American Union the questions of boundary with other governments were subject to adjustment by the United States. Why was this the case? It was because Texas, as a State of the Union, was bound to carry on her foreign relations through the government of the United States. The United States was not to exercise any power to injure Texas, but to protect her rights and defend her as a part of our common country, from foreign aggression. If the United States were to attempt to appropriate any portion

of the territory included in our boundaries, or to sanction any attempt to deprive Texas of the Santa Fe country, or any other portion of her territory, she would be violating a sacred trust, and inflicting a deadly blow upon the rights of Texas.

Mr. Buchanan, Secretary of State of the United States, in his letter to Governor Henderson, dated 12th February, 1847, remarks that the "temporary Government, resulting from necessity can never injuriously affect the right, which the President believes to be justly asserted by Texas to the whole territory, on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by treaty. But this is a subject which more properly belongs to the Legislative, than the Executive branch of the Government."

That part of the President's message of December last, in relation to New Mexico and California must be construed to refer to that portion of what was formerly New Mexico, which lies west of the Rio Grande, or the opinions of the President cannot be reconciled. Enough is known to convince us that we should act, and act quickly, unless we are satisfied to wink at an attempt to deprive us of a portion of our territory. Texas should never consent to a reduction of her limits. It is necessary for the Legislature to secure to the people of Santa Fe the rights of citizens, or our rights may be endangered by the movements which have been, and will be made in that country. As the Convention failed to act on this subject, it is to be regretted that the last Legislature took no steps to extend our laws over our entire territory. This delay has made it our imperative duty to act during the present session of the Legislature. The committee therefore recommend that a county be organized, to include the country which is inhabited, in the neighborhood of Santa Fe and Taos, and that a Judicial District be established in order that the citizens may be placed upon an equal footing with those of other portions of Texas. Let us extend our laws over the whole of our country, and secure to our citizens their rights, and to the State our public domain. If we fail to do so at this session of the Legislature, we may find great difficulty in establishing our rights hereafter. The longer we delay, the more the difficulties will increase. If we remain idle at such a crisis, posterity will long remember our neglect. Attempts may be made by insidious legislation to alter our boundaries and reduce our territory. The Legislative branch of the United States Government has no right to deprive

a State of her territory. The powers of the Legislative branch were granted to the Government for the protection of the rights of the States, and not to enable the United States to make war upon them.

Let us now discharge our duty to our country in such a manner that we may receive the applause of those who are to come after us. We have a great treasure to guard, and upon our action millions may be depending. If we suffer one of the finest portions of our domain to pass from us by our supineness, how can we justify ourselves to those whom we represent? Let us show ourselves worthy of our country! Let us show to the world that the blood of the Alamo has not been shed in vain! That Texians will ever sustain the honor of their martyred heroes, whose blood has reddened a hundred battlefields, that our banner has been unfurled, and that we will never yield one inch of soil on this side the Rio Grande.

With these views, the committee have instructed me to report to the Senate, "A bill to be entitled an act to create and organize the county of Santa Fe," and "A bill to be entitled an act to establish the eleventh Judicial District of the State of Texas," and recommend the passage thereof.

JON W. DANCY,
Chairman.

A bill to be entitled an act to create and organize the county of Santa Fe.

Read first time.

A bill to be entitled an act to establish the eleventh Judicial District for the State of Texas.

Read first time.

On motion of Mr. Fitzgerald,

200 copies of the report were ordered to be printed.

Mr. Perkins, chairman of the committee on Private Land Claims, made the following reports:

The committee on Private Land Claims, to whom was referred "a joint resolution confirming a certificate for one league and one labor of land issued to John Vanderworth, by the board of land commissioners of Austin county," which origina-

ted in the House of Representatives, have had the same under consideration, and direct me to report, that the only difficulty in the way seems to be, that only two of the investigating board of commissioners, instead of three, had signed the certificate recommending the same for patent, and can see no good reason why the relief asked for should not be granted. They therefore recommend the resolution to the favorable consideration of the Senate.

The committee on Private Land Claims, to whom was referred "a bill to be entitled an act for the relief of Columbus C. Browning," have had the same under consideration, and direct me to report the bill back to the Senate, and recommend its passage, with the following proviso to the 1st section, viz.:

"Provided said Columbus C. Browning introduce satisfactory proof before said board of commissioners, that he was a married man, and emigrated to the Republic of Texas previous to the 1st day of October, 1837."

The committee on Private Land Claims, to whom was referred a bill originating in the House of Representatives, entitled "an act for the relief of Thomas J. Stell," have had the same under consideration, and direct me to report, that the evidence accompanying the bill establishes the fact of the certificate being destroyed by fire. They therefore return the bill to the Senate, and recommend its passage.

Mr. Clark, Chairman of the committee on the Judiciary made the following report.

The Judiciary committee to whom was referred "an act concerning crimes and misdemeanors," have had the same under consideration, and herewith present for the consideration of the

Senate the accompanying bill, by way of substitute for the one referred, which has been compiled with considerable attention and care.

The committee regret that they have not been able to present this bill at an earlier day of the Session, but many circumstances have conspired to prevent their doing so. During the time that this bill has been in their hands, many other matters have occupied their time and attention, and the subject of the suppression and punishment of crimes and misdemeanors, is one of too much importance and too delicate a character to be hastily or lightly dealt with. Impressed with this consideration, they have endeavored to bestow upon it proper reflection. And in prescribing penalties for the commission of crimes and violations of law, they have sought to make the amount correspond with the character of the offence.

The bill is not full and complete. Many things properly belonging to such a law are not incorporated, but their absence, it is thought will produce no inconvenience, and their incorporation may safely be delayed until a future period.

EDWARD CLARK,
Chairman.

Mr. Phillips offered the following resolution.

“Resolved, That the House concurring, a joint committee be appointed to examine the cash book, and vouchers connected therewith, of the General Land Office.

Mr. Williamson moved to lay the resolution on the table for one day.

Lost.

The resolution was then adopted.

A message was received from the House of Representatives, informing the Senate that the House had passed the following bills, viz.:

A bill to be entitled an act to incorporate the town of San Augustine.

A bill to be entitled an act to establish the county seat of the county of Cameron.

A bill to be entitled an act to regulate proceedings in case of forcible entry and detainer.

A bill to be entitled an act for the regulation of Pilots at the mouth of the Brazos river.

A bill to be entitled an act to incorporate the city of Nacogdoches.

A bill to be entitled an act supplementary to an act to detect fraudulent land certificates, passed at the fifth Congress of the Republic of Texas.

The Senate proceeded to the orders of the day.

The following bills, viz:

A bill to be entitled an act concerning the forfeiture of certain neat cattle.

A bill to be entitled an act to amend an act creating the county of Polk, approved, March 30th, 1846.

A bill to be entitled an act to define the boundaries of Walker county.

A bill to be entitled an act to incorporate Montgomery Academy.

A bill to be entitled an act to authorize the issuance of land patents to assignees of Sheriffs, Executors, Administrators and Guardians.

A bill to be entitled an act to incorporate Williamson Academy, were severally read third time and passed.

Joint resolution for the relief of Louis Sanches.

Read third time and passed by the following vote.

YEAS—Messrs. Abbott, Bourland, Burleson, Clark, Gage, Grimes, Jewett, Fitzgerald, Navarro, Parker, Phillips, Wallace, Williams, Williamson and Wootten—15.

NAYS—Messrs. Bache, Cuny, Dancy, and Perkins—4.

Joint Resolution auditing and acknowledging the claim of Stewart Perry against the late Republic of Texas.

Read third time and passed by the following vote:

YEAS—Messrs. Abbott, Bourland, Burleson, Clark, Gage, Grimes, Jewett, Fitzgerald, Navarro, Parker, Perkins, Phillips, Wallace, Williams, Williamson and Wootten—10.

NAYS—Messrs. Brashear, Bache, Cuny and Dancy—4.

A bill to be entitled an act to amend an act to regulate proceedings in the District Courts, approved 13th May, A. D. 1846:

Read first time: and,

On motion of Mr. Jewett, rule suspended, bill read second time and referred to the committee on the Judiciary.

A bill to be entitled an act to amend the 2d and 4th sections of an act requiring the Commissioner of the General Land Office to issue patents upon unconditional headright certificates for land, approved, May 12th, 1846.

Read first time.

A bill to be entitled an act for the relief of Ann Terrell, widow and relict of George W. Terrell, deceased.

Read first time.

A bill to be entitled an act regulating attachments.

Read third time.

Mr. Perkins moved to amend by adding the following proviso.

"Provided, however, that no Judgment shall be taken against a defendant on attachment, unless the fact of such defendant being a non resident of the State, or about to move without the limits of the State, be on trial established by proper proof.

Rejected.

The yeas and nays were then called on the passage of the bill and stood thus.

YEAS—Messrs. Abbott, Bache, Burleson, Clark, Dancy, Gage, Grimes, Jewett, Navarro, Parker, Phillips, Wallace, and Williams—13.

NAYS—Messrs. Brashear, Cuny, Fitzgerald, McRae, Perkins, Williamson and Wootten—7.

On motion of Mr. Wallace,

A bill to be entitled an act to authorize and require Judges of the District Courts to hold special sessions thereof, for the trial of persons charged with the commission of crimes, the punishment for which is death, was taken up and placed among the orders of the day.

A bill to be entitled an act to organize the Supreme Court of the State of Texas.

Read second time.

Mr. Grimes moved to strike out "Brenham" in second section.

Carried.

Mr. Grimes moved to fill the blank with "Huntsville."

Lost.

Mr. Williamson moved to fill the blank with the "town of Washington in the county of Washington."

Lost.

On motion of Mr. Brashear the blank was filled with "Houston."

Mr. Navarro moved to strike out "Victoria" and insert "San Antonio."

Mr. Fitzgerald moved to amend the motion, by striking out "San Antonio" and inserting "Goliad."

Mr. Phillips moved a division of the question.

Mr. Williamson offered a substitute for the bill.

Mr. Clark moved to lay the substitute upon the table.

Upon which the yeas and nays were called and stood as follows:

YEAS—Messrs. Abbott, Bourland, Brashear, Clark, Gage, Grimes, Jewett, Fitzgerald, McRae, Parker, Phillips, Wallace, Williams and Wootten—14.

NAYS—Messrs. Bache, Burleson, Cuny, Dancy, Navarro, Perkins and Williamson—7.

So the substitute was laid upon the table.

Mr. Jewett offered a bill to be entitled an act providing for holding the sessions of the Supreme Court at the town of Henderson and city of Austin, as a substitute, which,

On motion of Mr. Phillips, was rejected by the following vote.

YEAS—Messrs. Abbott, Brashear, Clark, Gage, Grimes, Fitzgerald, McRae, Navarro, Parker, Phillips, Wallace, Williams and Wootten—13.

NAYS—Messrs. Bourland, Bache, Burleson, Cuny, Dancy, Jewett, Perkins and Williamson—8.

The question then recurred on the motion to strike out "Victoria."

Which motion was carried.

On motion of Mr. Williamson,

The Senate adjourned until 3 o'clock, p. m.

3 O'CLOCK, P. M.

Senate met—roll called—quorum present.

The Senate not being full, the question under consideration was informally passed over.

A bill to be entitled an act authorizing the appointment of a Fiscal agent and for the better security of the revenue.

Read first time.

On motion of Mr. Gage,

The rule was suspended, bill read second time and referred to the committee on Finance.

On motion of Mr. Wallace,

A bill to be entitled an act to authorize and require the Judges of the District Courts to hold special sessions thereof, for the trial of persons, charged with the commission of crimes, the punishment for which is death, was taken up and referred to a select committee.

Messrs. Wallace, Williams and Gage, were appointed said committee.

Joint Resolution authorizing the transfer of one half of a certain lot in the city of Austin, on certain conditions.

Read first time.

On motion of Mr. Gage the rule was suspended, read second time, and referred to the committee on Private Land Claims.

A bill to be entitled an act to regulate the public printing.

Read second time: and,

On motion of Mr. Brashear, referred to the committee on contingent expenses.

A bill to be entitled an act to punish officers guilty of extortion.

Read second time: and,

On motion of Mr. Wallace, referred to the committee on the Judiciary.

A bill to be entitled an act to incorporate the town of Columbia, on the Brazos river, in Brazoria county.

Read second time: and,

On motion of Mr. Perkins referred to the committee on the Judiciary.

A bill to be entitled an act to define the times of holding the Courts in the 8th Judicial District.

Read second time: and,

On motion of Mr. Williamson referred to a select committee.

A bill to be entitled an act to define the time of holding the Courts in the 9th Judicial District.

Read second time: and,

On motion of Mr. Parker referred to a select committee.

A bill to be entitled an act for the relief of James P. Wallace.

Read second time: and,

On motion of Mr. Burleson, referred to the committee on Private Land Claims.

A bill to be entitled an act regulating Ferries.

Read first time.

And on motion of Mr. Gage, rule suspended, read second time and referred to the committee on Internal improvements.

A bill to be entitled act regulating sequestrations.

Read first time: and,

On motion of Mr. Clark, rule suspended, read second time and referred to the committee on the Judiciary.

The Senate being full, the bill under consideration at the time of adjournment was taken up.

The question before the Senate being on the amendment proposed by Mr. Navarro, to insert "San Antonio."

Upon which the yeas and nays were called—and stood thus.

YEAS—Messrs. Burleson, Cuny, Dancy, Grimes, Jewett, Navarro, Parker and Williamson—8.

NAYS—Messrs. Abbott, Brashear, Bache, Clark, Gage, Fitzgerald, McRae, Perkins, Phillips, Wallace, Williams and Wootten—12.

Rejected.

Mr. Fitzgerald then moved to fill the blank with "Goliad."

Mr. Dancy offered to substitute "Austin" for "Goliad."

Upon which the yeas and nays was called and stood as follows:

YEAS—Messrs. Bourland, Burleson, Cuny, Dancy, Grimes, Jewett, Perkins, Williamson and Wootten—9.

NAYS—Messrs. Abbott, Brashear, Bache, Clark, Gage, Fitzgerald, McRae, Navarro, Parker, Phillips, Wallace and Williams—12.

Rejected.

The question then recurred on filling the blank with "Goliad."

Upon which the yeas and nays were called, and stood as follows:

YEAS—Messrs. Abbott, Bourland, Brashear, Bache, Burleson, Clark, Gage, Grimes, Jewett, Fitzgerald, McRae, Navarro, Parker, Perkins, Phillips, Wallace, Williams, Williamson and Wootten—19.

NAYS—Messrs. Cuny and Dancy—2.

So the blank was filled with Goliad.

Mr. Williams moved to fill the blank in the 2d section with "November."

Carried.

On motion of Mr. Williamson the Senate adjourned.

Wednesday, 9 o'clock, A. M.

March 1st, 1848.

The Senate was called to order by the President—The following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Bache, Clark, Cuny, Dancy, Gage, Grimes, Jewett, Fitzgerald, Navarro, Perkins, Parker, Wallace, Williams, Williamson and Wootten.

Quorum present.

The Journal of the preceding day was read and adopted.

Mr. Clark, chairman of the committee on the Judiciary, made the following report:

The Judiciary committee, to whom was referred "a bill to be entitled an act to require all mayors and recorders of incorporated towns and cities to call a jury in the trial of all causes where the accused is subject, under the law, to fine and imprisonment, or either," and a majority of those present instructed me to report the same back to the Senate, and recommend its passage.